## DECISION TALBOT COUNTY BOARD OF APPEALS Appeal No. 15-1627 R (on remand)

Pursuant to due notice, a public hearing was held by the Talbot County Board of Appeals (the Board) at the Bradley Meeting Room, Court House, South Wing, 11 North Washington Street, Easton, Maryland, beginning at 7:00 p.m., July 11, 2016 on the Application of RHONDA HIGGINBOTTOM and the HIGGINBOTTOM TRUST, MARK HIGGINBOTTOM, Trustee (collectively, Applicant). The Applicant is seeking two variances to permit the construction of a single family residence on a non-conforming lot of record located within the critical area buffer management area in the village of Tunis Mills. The Circuit Court for Talbot County reversed the Board's initial decision denying the variances, and remanded the case to the Board for further consideration in accordance with its decision.

The initial request was made in accordance with Chapter 190, Zoning, Article VI, §190-139 and Article IX, §190-182 of *Talbot County Code* (the *Code*). The property is located at 26190 Tunis Mills Road, Easton, MD 21601 in the Rural Residential (RR) zone. The property owners are Rhonda Higginbottom and the Higginbotton Trust, Mark Higginbottom, trustee. The property is shown on Tax Map 16, Grid 20, Parcel 119.

Present at the hearing for the Board of Appeals were: Paul Shortall, Jr., Chairman; member Louis Dorsey, Jr. and alternate members Frank Cavanaugh; Jeffrey Adelman; and Gregory Gannon. Anne C. Ogletree served as attorney for the Board of Appeals. Michael Pullen, County Attorney, Jeremy Rothwell, Planner I, and Mary Kay Verdery, Planning Director, were in attendance.

## Procedural History

This case returns to this Board for the fourth time pursuant to a remand in Civ. No. 20-C-15-009184. On March 16, 2016 the Circuit Court heard the Applicant's appeal of the Board's decision denying the two (2) requested variances and the appeal by both the Applicant and Talbot County of the Board's decision that a regulatory taking did not occur at the time that the variances were denied. In a Memorandum Opinion and Order dated April 7, 2016 the Circuit Court held that:

- (1) The Board erred, as it failed to consider the unique physical characteristics of the lot;
- (2) The Board incorrectly focused on the trustee's statement that he was obligated to maximize the value of the trust rather than considering the effect of the physical characteristics of the property on its value;
- (3) There was a lack of competent evidence to support the Board's findings that the proposed variances would be contrary to the public interest;
- (4) The Board was premature in deciding that the adjustment requested was not the minimum that would relieve the hardship;
- (5) The Board applied several incorrect criteria when considering the critical area variance; and
- (6) The Board should consider the constitutional issue, the regulatory taking, if, on remand, it determined that the variances should be denied.

Citing the failure of adequate notice of the revised site plan presented at the April 13, 2016 hearing, the Court remanded the case for the Board's reconsideration in light of the instruction given it its opinion. In compliance with the Court's order this Board's hearing was scheduled for July 11, 2016.

## The July 11, 2016 Hearing

Mr. Shortall opened the meeting noting that the case had been returned to the Board on remand. The following new exhibits were admitted into evidence<sup>1</sup>:

Exhibit 1 Certificate of Publication in the Star Democrat the weeks of 6/24/15 and 7/1/16;

Exhibit 2 Copy of Notice of Public Hearing;

Exhibit 3 List of notified property owners;

Exhibit 4 Sign Maintenance Agreement;

Exhibit 5 Board's Decision in Appeal No. 15-1627;

Exhibit 6 Circuit Court Memorandum Opinion and Order in Case No. 20-C-15-009184;

Exhibit 7 Mr. Alspach's letter of June 20, 2016.

The Chairman then asked Mr. Thompson, the Applicant's attorney, to present his case.

<sup>&</sup>lt;sup>1</sup> The submissions by the Applicant at the July hearing are prefaced with the hearing date to differentiate the exhibits presented at that hearing from those presented at the earlier hearings. The exhibits presented at the earlier hearings are prefaced by the designation Board's Record.

Mr. Thompson introduced himself as the attorney for the Applicant. He explained that after having spoken with Mr. Alspach and Mr. Pullen, the attorneys were in agreement that the current hearing should not be lengthy. He believed there were two, possibly three issues. The first issue for the Board to consider requires it to answer the following question: Is there enough evidence in the record to show that the proposed residence is the minimum adjustment necessary to permit development of the lot for a permitted single family residence? The second issue raised by the Circuit Court is whether the Board made it clear to the public in advance that it was considering Applicant's Exhibit 9, the revised site plan at its April 13, 2015 hearing. It was evident from the record that Mr. Alspach had not been fully aware that the matter was to be considered and that he had not had the opportunity to cross examine on the changes proposed by that exhibit. For those reasons Judge Kehoe felt Mr. Alspach should be allowed that opportunity on remand.

Mr. Thompson informed the Board that the Applicant and the Opponents had arrived at an agreement that would allow the Applicant's request to go forward without opposition, and would allow Ms. Heyman the ability to purchase the property at a price equal to that offered by a third party. He reminded the Board that Ms. Heyman had made two prior offers but neither had been accepted. The agreement would allow her the opportunity to purchase and preserve the property if she felt the price was right, and would please the other neighbors, all of whom would like to see the property preserved.

Mr. Thompson asked that the Board admit the entire record from the three previous Board hearings into evidence. That record consists of the following:

- (1) The Board's exhibits listed in the Board's prior decision (Exhibit 5);
- (2) The transcripts of the Board's hearings of March 9, 2015; April 13, 2015 and July 13, 2015;
- (3) Applicant's exhibits 1-9 from the March 9 and April 13, 2015 hearings;
- (4) Opponent's exhibits 1-4 from the March 9, 2015 and April 13, 2015 hearings;
- (5) Talbot County's Regulatory Takings Analysis;
- (6) Talbot County's Motion for Reconsideration;
- (7) Opponents' (Respondents') Motion to Strike; and
- (8) Talbot County Legislative Bill No. 1255 (as amended), Bill No. 1292, and Bill No. 1293.

Mr. Thompson added that should the Board approve the grant of the variances following its reconsideration, the constitutional issue that the County intervened to address becomes irrelevant.

Moving on to the application for the variances, Mr. Thompson re-introduced Applicant's Exhibit 9, the revised site plan, distributing copies to the Board. He noted that above the block in the lower right corner is the legend "revised 4/13/15". The one difference in the document distributed and the Board's record copy is that he had colored the building envelope in yellow. He explained that without a variance, it would be impossible to construct anything usable on the site. The exhibit was labeled 9A to differentiate it from the earlier non-colored version.

Mr. Thompson reminded the Board that the evidence<sup>2</sup> in the prior hearing showed that this lot is a non-conforming lot of record and is a valid building lot -- except that, due to the lot configuration, the setbacks cannot be met, and the lot requires variances from those setbacks before a residence can be constructed. The proposed residence is situated as shown on Exhibit 9A to take in the entire building envelope and take advantage of the slightly higher elevation in that location. The professionals previously testified that the proposed residence was located as shown since that location was the exact spot on the lot where one could get the 'most' house with the least adjustment required.

The site plan shown on Exhibit 9A was introduced as Applicant's Exhibit 9 in the April 13, 2015 hearing since the Board indicated at the March hearing that it wanted to see something smaller. In response the Applicant deleted the screened porch on the rear. Counsel explained that due to the irregular narrow lot the Applicant was limited in moving the structure – to do so would possibly create the need for additional variances. By removing the porch and adjusting the residence location slightly the Applicant has requested the Board to allow a variance of the buffer management area to permit the northwest corner of the residence, the closest corner, to be located twenty-eight point seven (28.7) feet from mean high water (MHW) and a variance of the front yard setback from Tunis Mills Road from twenty-five (25) feet to fifteen point one (15.1) feet. Those variances are necessary to permit the construction of a modest single family residence on

<sup>&</sup>lt;sup>2</sup> See, Board's Record, Exhibit 8, Staff Memorandum and Exhibits; Applicant's Exhibit 3, November 26, 2012 letter to Dr. Higginbottom.

this non-conforming lot, or, as Judge Kehoe pointed out in his opinion<sup>3</sup>, any dwelling to be built on the lot. The prior evidence, as well as the additional testimony to be presented will show that what is proposed on Exhibit 9A is the minimum necessary to provide a reasonable single family residence.

Mr. Thompson reminded the Board that the lot under consideration is located within the RR zone, where a primary permitted use is single family residence<sup>4</sup>. The testimony at the prior hearing by the Applicant and Ms. Watkins, a local realtor with a knowledge of the market, was that an average single family home in the locality was a three (3) bedroom two (2) bath residence. The Applicant's goal was to design such a residence on the smallest possible footprint.

Counsel noted that life on the shore makes it almost mandatory to have a garage -not so much for housing a vehicle, but for storing all the 'necessary' items one needs for
boating, fishing, lawn care, gardening, recreation and just plain living. He also pointed
out that the proposed residence was only twenty-four (24) feet in width (or depth). The
interior dimensions are closer to twenty-three (23) feet. He opined that it was not possible
to either move the proposed residence on the lot or to build a smaller marketable family
home to reduce the requested variances.

Mr. Thompson called Dr. Higginbottom as a witness. The Chairman then requested that anyone who was expected to testify stand and be sworn. Once all witnesses were sworn Mr. Thompson proceeded to examine Dr. Higginbottom, who resides at 8649 Marengo Farm Road, Easton, MD 21601.

In response to questions from Mr. Thompson Dr. Higginbottom stated that the lot was purchased in 1988 and was one of two parcels, the other, an improved parcel, was located across the street. The improved parcel was sold, and the family kept the waterfront lot that is the subject of this hearing. He commented that, as a trustee, it was his obligation to maximize the value of the trust property. Being unable to build on the lot created a hardship for the trust.

He applied for the necessary variances to construct a very modest home on the lot. He reviewed many plans, and found it difficult to select one that would fit on this

<sup>&</sup>lt;sup>3</sup> Board's Exhibit 6, Circuit Court opinion at 3.

<sup>&</sup>lt;sup>4</sup> Code, 190-16, Table of Uses, III-1 at 41.

property because of the lot's dimensions. The plan proposed was most modest -- only twenty-four (24) feet in depth and thirty-three (33) feet in length. It requires variances for both the road side (the front) and the water side (the back). The proposed residence has a footprint, excluding the garage, of seven hundred ninety two (792) square feet. There was no other place on the lot where a residence could be constructed without requiring more significant variances. Dr. Higginbottom also stated that without the requested variances the owners would be unable to construct a residence, something that all lot owners in the RR district had a right to do.

When asked if the variances would grant him a special privilege, he stated they would not. He understood that all non-conforming lots within the critical area were allowed to be developed for single family residences<sup>5</sup>, and without the requested variances the owners of this property would be unable to build any structure at all.

Counsel asked how long Dr. Higginbottom had been familiar with the property. The witness responded that he had grown up in Tunis Mills, having moved there when he was about four (4) years old. He was unaware of any unusual wildlife habitat on the lot. It is basically an open field with a cedar tree, a couple of bushes and transient wildlife. The waterfront shoreline on the lot is entirely riprapped. There is no wildlife nesting on the lot. He did not foresee any detriment or change even with possible construction of a new residence. He was also unaware of any plant habitat that would be adversely affected by the construction proposed.

Mr. Thompson inquired if the variances requested were the minimum necessary to allow the use of the lot and received an affirmative response. Counsel had no further questions of Dr. Higginbottom.

Mr. Cavanaugh asked if the Applicant was relying on the current law, or that of 1988, when the lot was acquired, in believing it could be developed.

Mr. Thompson responded that the question was actually more of a legal question and for that reason he felt he was better able to answer. He explained that the lot has been designated as a legal non-conforming lot of record meaning it preexisted zoning and could be used for any purpose allowed in the zoning district, such as single family residential use. While ordinances may subsequently change the dimensional requirements

<sup>&</sup>lt;sup>5</sup> See, Board's Exhibit 6, Circuit Court opinion at 12.

so that variances may be required in order to build or expand a structure on the lot, the right to be able to use the lot for a permitted use does not change. He added that in the earlier hearings there had been discussion about the lot not being buildable. That was true for some time, not because of zoning restrictions, but because the lot could not support a septic system, and would not be approved by the health department. The county has since put in a sewer and has confirmed that this lot has access to that system, so the original impediment has been removed.

Mr. Dorsey asked if the garage was a two (2) car garage. The witness stated it was a one (1) car garage. Mr. Dorsey then inquired if the Applicant had given any thought to adding to the height to reduce the variance. He added that the proposed height was not an issue, but adding height might make the footprint smaller thus reducing the variances.

The witness answered that the structure already had a second story, and the requested footprint was necessary to support that structure. Mr. Thompson explained that the variances requested were variances to permit the footprint of the structure, seven hundred ninety two (792) square feet for the house and an additional three hundred ten (310) square feet for the garage. The distances from the closest points of the footprint to the water and the road were the issues. The height is irrelevant, as the Applicant is not seeking to vary that requirement. He added that the height of the proposed structure was one of the things the neighbors did not like, as a two story house would impede their view.

Mr. Gannon asked about the concrete pad where the old canning house was originally located. He wished to know if that was considered impervious surface that might be required to be removed.

Mr. Thompson remarked that Mr. Gannon had asked an excellent question. He noted that no one previously seemed to recognize the significance of the pad. Mr. Mielke, who was in the audience at an earlier hearing, stated he used to ride his bike around the pad. The pad is not a part of any of the improvements to be made in this project. Counsel added that the real question is whether removing the pad that close to the water does more environmental harm than allowing it to remain. The Critical Areas Commission has gone both ways on this issue – requiring it to be removed in some cases, and requiring that it remain in others. If the pad must be removed, that could be done.

The Chairman asked how much topsoil covered the pad. Dr. Higginbottom stated that he used to cut the grass there, and he thought there was about four (4) inches of topsoil covering the pad. Mr. Thompson added that if required to remove the pad, the Applicant would comply.

Mr. Shortall inquired if the pad removal would be necessary to permit on site mitigation. Mr. Thompson wasn't sure if the removal of the pad itself would require mitigation. Ms. Verdery added that if the existence of the pad affected the mitigation plan for the house, she thought it might have to be removed. Mr. Shortall confirmed that it was his understanding that the removal of the pad would most probably be addressed in the buffer management plan.

Mr. Adelman pointed out that on the current plan the impervious surface is listed as zero (0) square feet, so it does not appear the pad was considered impervious surface. Mr. Thompson concurred and felt that, as it served no purpose, it should probably go.

Mr. Adelman stated it would be relevant to the required mitigation.

Mr. Dorsey inquired about the height. Mr. Thompson answered that the proposal was for a standard one and one half (1 1/2) story house and that it would be within the county limit of forty (40) feet. Ms. Ogletree added that the testimony at the previous hearing was the residence would be twenty-seven (27) feet in height. Ms. Verdery said that the total height had to allow for the flood zone requirements in addition to the height of the structure.

Mr. Shortall asked if there were additional questions of Dr. Higginbottom. Hearing none, he asked Mr. Thompson to proceed with his next witness.

Mr. Thompson called Edward S. Moore, a construction contractor in Talbot County. In response to Mr. Thompson questions Mr. Moore testified he'd been in the construction business in Talbot County for twenty six (26) years. He regularly built homes and was familiar with the standards used in the industry as to the minimum width for residences. He believed that twenty-four (24) feet was the minimum width for new construction. The smallest standard modular home has a width of twenty-four (24) feet. Since framing standards have changed, the interior dimensions of a twenty-four (24) foot wide residence would be less than twenty three (23) feet. After reviewing the plans for

the proposed residence, Mr. Moore felt that it was a very basic structure and the minimum necessary for market appeal.

Mr. Thompson had no additional questions for Mr. Moore.

The Chairman inquired if any of the Board members had questions.

Mr. Dorsey indicated that he did. He asked Mr. Moore about the height of the structure, and whether it included the federal floodplain elevation. Mr. Thompson responded that he did not believe those elevations were included in the twenty-seven (27) feet shown on the plans. Ms. Ogletree remarked that the prior testimony was thirty-three 33 feet, total, including the floodplain elevations.

Mr. Adelman asked about the total square footage of the residence. He recalled someone saying twelve hundred (1,200) square feet. Mr. Rothwell stated that the total square footage of the house itself was eleven hundred ninety (1,190) square feet, not including the garage.

Mr. Thompson had no other prepared testimony, but let the Board know that the professional witnesses, Mr. Johnson, Mr. Waters and Ms. Watkins, all of whom had previously testified were available for questions, should the Board wish additional testimony.

Mr. Shortall reminded the members that Mr. Waters was the surveyor, Ms. Watkins the realtor and Mr. Johnson the land planner who had previously testified. He asked the members if there were additional questions for those witnesses. Hearing none, he felt there was no need for the professional witnesses to repeat their prior testimony.

Mr. Thompson offered one additional comment for the Board's consideration. He noted that both the County and Mr. Waters could state that there is an allowable lot coverage for a lot this size under the critical area law. That figure is shown on Exhibit 9A. A critical area lot in the RR zone without the setback issues could have allowable lot coverage of four thousand eighty nine (4,089) square feet. What the Applicant is proposing to cover is basically fourteen hundred seventy six (1,476) square feet. Thompson opined that the proposal on Exhibit 9A was a significant compromise, and a good indication that the proposal was intended to provide the minimum variances

<sup>&</sup>lt;sup>6</sup> Board's Exhibit 6, Circuit Court opinion at 3-4

necessary to permit the property owner relief from the strict application of the setbacks in the ordinance.

After ascertaining that there were no additional persons in the audience who wished to speak, the Chairman invited Mr. Alspach to address the Board.

Mr. Alspach identified himself for the record and noted that he had communicated with the Board in writing<sup>7</sup>. He had no prepared testimony, and was not sworn, but wished to thank the Board for its attention to the matter. He noted that the case could have become even more protracted, and his clients did not wish to be drawn into that battle. He confirmed that the parties had reached an agreement in which his clients had withdrawn their opposition in return for a right of first refusal which offered them the opportunity to purchase the lot at the figure offered by a third party.

Mr. Shortall then suggested that the Board members discuss the case.

Mr. Adelman expressed his understanding that the court had given the Board direction in two areas – considering that this property is a legal non-conforming lot of record, the proposed use, a single family residence, is within the parameters of the zone's legal uses, and he felt the proposed setback variances were the minimum necessary to provide relief. He commented that he thought the court has instructed the Board to consider those setbacks specifically.

The Chairman commented that Mr. Adelman made a good point and inquired if there was any additional discussion. There being no further discussion, the Board made the following findings of fact and conclusions of law:

- 1. The hearing of the remand was properly advertised, and proper notice was given to the public. 7/11/16 Board's Exhibits 1-4;
- 2. The lot that is the subject of the proceeding (hereinafter the Lot) is a valid non-conforming lot of record. Board's Record, Exhibit 8, Staff Memorandum and Exhibits; Applicant's Exhibit 3, November 26, 2012 letter to Dr. Higginbottom.
- 3. The Lot is approximately .329 acres. It is roughly rectangular in shape with approximately 218 feet of riprapped shoreline and 200 feet of road frontage. Its southern boundary is 97 feet, more or less, and the northern boundary is

<sup>&</sup>lt;sup>7</sup> Board's Exhibit 7, June 20, 2016 letter.

- roughly 60 feet in length. On the northern boundary the fifteen (15) feet closest to Leeds Creek is low and marshy. The northern end of the property floods in high tides or storm surge. Board's Record, Exhibits 10, 11, Applicant's Exhibit 7, 9, Opponents Exhibit 4; 7/11/16 Board's Exhibit 9A
- 4. The building envelope on the property is virtually nonexistent, and is shown in yellow on Board's Record, Exhibits 11, 26; 7/11/16 Applicant's Exhibit 9A. It is impossible to build a residence on the lot given the setback imposed by *Code* § 190-146 (C)(1)(b) and *Code*, § 190-14 Table II-3.
- 5. The proposed residence has a footprint of seven hundred ninety two (792) square feet, with a garage of three hundred ten (310) square feet. Under the Applicant's proposal the closest rear corner of the residence will be twenty-eight point seven (28.7) feet from MHW, and the closest point on the front of the residence will be fifteen point one (15.1) feet from the westerly side line of Tunis Milles Road. The buffer management area, *Code*, '190-146 (C)(1)(b) encompasses most of the lot as shown on 7/11/16 Applicant's Exhibit 9A.
- 6. Mr. Waters, Applicant's surveyor, testified that he experimented with slight variations on the location of the residence, but that the location shown on 7/11/16 Applicant's Exhibit 9A was in the highest portion of the property, took in almost all of the building envelope, and required the smallest front and rear variances.
- 7. Ms. Watkins, a licensed realtor, testified that based on her twenty (20) year experience selling property in Talbot County, the market for a single family residence was for homes containing three bedrooms and two baths. She did not recall a new two bedroom home being built for a family, although there were a few older two bedroom homes on the market.
- 8. Dr. Higginbottom testified that the inability to build a single family residence on the Lot as permitted in the *Code*, § 190-16, Table of Uses Table III-1 at 41, and as permitted by COMAR § 27.01.02.07 (B) would adversely impact the trust, and would result in an unwarranted hardship.
- 9. A literal interpretation of the Buffer Management Area standards would deprive the Applicant of the right to build a single family residence on the

- Lot, a right enjoyed by the owners of all non-conforming critical area lots. COMAR § 27.01.02.07 (B).
- 10. All property owners of valid non-conforming lots in residential districts within the critical area have the right to use their property for a single family residence. The Applicant is not receiving any special privilege if the critical area variance is granted.
- 11. The conditions causing the variance are those imposed by the configuration of the lot, and have not been caused by the Applicant.
- 12. There is no competent evidence that the granting of the variance requested will adversely affect wildlife or plant habitat.
- 13. The Applicant owns no adjoining property that could be used to reduce the critical area variance.
- 14. A literal enforcement of the provisions of the ordinance will prevent the Applicant from constructing a single family residence on the property, as the size and shape of the building envelope necessitate a variance for any construction.
- 15. While the construction of a residence will enhance the value of the property, the Applicant seeks only to do that which it is legally permitted to do construct a single family residence in the RR district. The Applicant has made every effort to shrink the size of the residence to the absolute minimum to accommodate a small family, and has not included any 'extras'. The variance is required because of the lot configuration, and for no other reason.
- 16. While the neighbors have concerns about losing their views and the possible effect of the construction on wildlife, there is no right to a view, and there is no competent evidence that wildlife will be affected. Some concern was also expressed about property value, but there was only opinion expressed. It should be noted that the house will be located close to the southern boundary, and that most of the Lot will remain undeveloped.
- 17. Considering all of the testimony, there is ample evidence that the variances requested are the minimum necessary to afford relief. The proposed home is the smallest three bedroom house that will fit on the Lot. The market for

single family residences equates a three bedroom two bath home as being the minimum necessary for a family. Mr. Waters testified that locating the house in any other location on the Lot would result in larger or additional variances.

Mr. Cavanaugh stated that he had a motion. However, before he made the motion he wished to clarify his concerns. He felt the Board was being asked to decide the matter based on plans that it really did not have. With that in mind he moved that:

The Board approved the request for the two variances with the following conditions:

- (1) The gross floor area of the residence, including the garage be limited to sixteen hundred eighty (1,680) square feet that shall be comprised of:
  - (a) 1<sup>st</sup> floor seven hundred ninety two (792) square feet;
  - (b) 2<sup>nd</sup> floor four hundred seven (407) square feet:
  - (c) Entry forty five (45) square feet;
  - (d) Garage three hundred fifty two (352) square feet;
  - (e) Air Conditioner pad four (4) square feet;
  - (f) Stoop and steps, eighty (80) square feet;
- (2) The residence shall not exceed twenty-four (24) feet in width (depth);
- (3) The closest corner of the residence and garage must be set back twenty-eight point seven (28.7) feet from MHW;
- (4) The front steps, the closest part of the residence fronting the road, shall be set back fifteen point one (15.1) feet from the side line of the Tunis Mills Road;
- (5) The Applicant shall remove any portion of the existing concrete pad from the old cannery that is not encompassed within the house footprint;
- (6) Any necessary walkways and/or driveways and impervious surfaces shall be kept to the minimum that is required to meet code;
- (7) Mitigation shall be required in accord with an approved buffer management plan.

Mr. Cavanaugh stated he understood that the buffer management plan would be designed by professionals, but he asked that the Applicant's plan consider mitigation species that would not grow excessively tall or wide to protect the viewshed of neighbors as well as that of the residents.

Mr. Adelman seconded the motion. The Chairman called for a vote. The motion passed, 5-0 with all members voting to approve the motion to grant the two variances requested.

HAVING MADE THE FOREGOING FINDINGS OF FACT AND LAW, IT IS, BY THE TALBOT COUNTY BOARD OF APPEALS,

RESOLVED, that the Applicants, **RHONDA HIGGINBOTTOM the HIGGINBOTTOM TRUST**, Mark Higginbottom, trustee, (Appeals No. 15-1627 and 15-1627R) are **GRANTED** the requested variances, subject to the conditions stated, and in accordance with the evidence presented to the Board.

GIVEN OVER OUR HANDS, this <u>18th</u> day of <u>August</u>, 2016.

TALBOT COUNTY BOARD OF APPEALS

Paul Shortall, Jr., Chairman

Louis Dorsey, Jr., Member

Frank Cavanaugh, Alternate Member

Jeffrey Adelman, Alternate Member

Gregory Gannon, Alternate Member